

(60) CHANGE IN PROCEDURE 100-24 EMPLOYEE GRIEVANCES

Mr. Sam Brownlee, County Manager, presented the following memorandum dated October 25, 1989:

To: Sam Brownlee, County Manager
From: R. J. Stegg, Executive Assistant
Subject: PROCEDURE 100-24 - EMPLOYEE GRIEVANCES

The attached Procedure 100-24 - Employee Grievances has been revised to eliminate the requirement for the employee/s (2) that are appointed by the Board of Commissioners (supervisory type) to be a resident of Fulton County.

This action was taken as a result of action by the County Legal Department.

PROCEDURES MANUAL

Subject: Employee Grievances

Number: 100-24 Revised

A. Statement of Policy: It shall be the policy of Fulton County to promote good employee relations by minimizing and adjusting job-related complaints and grievances from employees through a formal, structured grievance procedure. This policy provides that adjudication of employee grievances shall be accomplished informally at the lowest possible level of management, and also prescribes departmental responsibilities, procedures and timeliness of actions to be taken involving the processing, handling and resolution of such grievances. However, inasmuch as there may be grievances which cannot be resolved at the departmental level, this policy also establishes a "Grievance Review Committee", with membership as provided herein to assist in the grievance process by conducting hearings as a final step in the grievance procedure. The primary objective of the Grievance Review Committee is to provide a review of any adverse personnel actions occurring at the departmental level.

B. Definition: A "Grievance" is defined as the claim of an individual employee that his/her rights under announced rules and regulations or past practices have been unfairly denied or ignored.

C. Applicability: This policy shall apply to all Fulton County employees, departments and agencies. This grievance procedure applies to any complaint concerning working conditions, performance evaluation, classification and pay actions, selection and appointment, placement and promotion, hours of work, relationships between employees, departmental and County policies and procedures, and any other employment-related issues including any charges of alleged discrimination based on race, sex, religion or national origin.

D. Procedures: The following procedures are established to govern the processing of grievances and for the purpose of eliminating or correcting justifiable complaints. All employees will be afforded fair, equitable, and expeditious review of their grievance without fear of any form of punishment, retaliation, or discrimination for such action. There are six (6) types of grievances recognized under this policy:

- Class 1: Supervisory relationships and working conditions.
- Class 2: Classification and pay actions.

- Class 3: Selection, placement and promotion
- Class 4: Departmental policies and procedures.
- Class 5: County-wide policies and procedures.
- Class 6: Other employment-related issues.

Step 1: Any employee in the classified or unclassified service shall have the right to utilize the grievance and appeal procedures. A formal grievance shall not be initiated unless and until the employee has discussed the grievance with the immediate supervisor of the employee, and such employee was not satisfied with the results of the discussion.

Step 2: An employee who wishes to present a formal grievance shall state his or her grievance in writing on a standard form entitled "Employee Grievance Form" (FCPB-0580, copy attached). This form shall be dated and signed by the employee and shall set forth a brief statement of the grievance, the facts and issues upon which it is based, the time, date and place of their occurrence and the remedy or correction requested. A separate form shall be required for each individual grievance. "Group Grievances" are not acceptable. The aggrieved employee shall deliver the grievance form to his or her immediate supervisor at which time the grievance is considered, filed and dated by the supervisor. Unless the written grievance signed by the employee has been delivered to the immediate supervisor within twenty (20) working days after the occurrence upon which the grievance is based, or grievant's knowledge of the occurrence, the grievance shall be deemed to be waived. The immediate supervisor and grievant shall discuss the grievance and shall make every effort to resolve it at the Step 2 level. If the grievance is resolved subsequent to this discussion, the immediate supervisor shall furnish a written response on the grievance form to the grievant within five (5) working days after receipt of the written grievance, indicating his or her disposition of the case. The grievant will acknowledge in writing his or her acceptance of the settlement. If a settlement is not reached within five (5) working days of initial receipt of the grievance, the immediate supervisor shall forward the grievance through supervisory channels to the mid-level supervisor, typically a Division Chief, Program Manager or comparable title, setting forth the specific points of agreement and disagreement. The immediate supervisor will notify the grievant in writing that the grievance has been forwarded to the mid-level supervisor and/or Department Head. (Note: In smaller departments, the Department Head may receive and process a grievance directly from Step 1 to the Step 4 level, if no intermediate level or supervision exists.)

Step 3: The grievance shall be given further consideration at the mid-level supervisory level and an additional effort made toward settlement by the mid-level supervisor in coordination with other intermediaries and the grievant. Further investigation and/or development of additional pertinent facts may be required by the mid-level supervisor. If a settlement is reached at Step 3, the employee shall be so notified in writing on the grievance form within five (5) working days after receipt of the form. If a settlement is not reached at Step 3, the grievance shall then be forwarded to the Department Head for further action at Step 4.

Step 4: The Department Head shall give further consideration to the grievance and shall make every effort to resolve it. If a settlement cannot be reached at Step 4 within five (5) working days after receipt of the form, the grievance shall then be forwarded to the Personnel Director for referral to a "Grievance Review Committee", the composition, authority and functions of which are set forth in detail below. The "Grievance Review Committee" shall be authorized to hear all grievances under this policy and shall have the power to issue "Recommended Settlement Orders" to the County Manager. The County Manager is ultimately responsible for settling all grievances. The hearings shall begin at the earliest practicable date following receipt of the "Employee Grievance Form". The Grievance Review Committee shall complete its deliberations and submit their "Recommended Settlement Order" to the County Manager within forty-five (45) calendar days after receipt of the "Employee Grievance Form". For purposes of this policy, the Court Administrator shall represent all Superior Court Judges at the Step 4 level; the Chief Clerk shall represent all Judges of the State Court of Fulton County at the Step 4 level; and the Director, Juvenile Court Services, shall

represent all Juvenile Court Judges at the Step 4 level. The Probate Court shall be represented by the Chief Deputy Clerk-Probate Court.

E. Grievance Review Committee: An impartial Grievance Review Committee consisting of five (5) members as indicated below, is established, empowered and authorized to negotiate and recommend a disposition of any grievance covered by this policy which has not been satisfactorily resolved during Steps 1, 2, 3, and 4, as outlined above. Membership of this Committee shall be as follows:

- (1) Two (2) members shall be elected by an employee County-wide election. The term shall be for a period of two (2) years. Eligibility is as follows:

- a. Permanent employee
- b. Non-supervisory employee

The Elections Department shall supervise the election and the Personnel Department shall determine employee eligibility to qualify as candidates. The posts will go to the top two people rather than using a majority vote system, thus eliminating a run-off.

In the event an elected member becomes ineligible to serve due to promotion to a supervisory position, the Personnel Director is authorized to fill the vacancy with the person with the next highest vote total.

- (2) Two (2) members shall be appointed by the County Commission for staggered terms of two (2) years each, with selection eligibility as follows:

- a. Management personnel
- b. Supervisory personnel

Vacancies will be filled by County Commission action.

- (3) One (1) member shall be selected by the above four elected/appointed members from the general public for a term of three (3) years. Eligibility for selection will be governed by the following criteria:

- a. Not receiving a County supported pension
- b. Not receiving compensation by reason of doing business with the County
- c. Not a member of any County Board or Authority
- d. Not a member of the Personnel Department

Vacancy will be filled by the four elected/appointed members.

- (4) For the purposes of this Procedure, the term "supervisor" shall mean any permanent Fulton County employee who meets all of the following requirements:

- a. Primary duty consists of the management of the enterprise in which he/she is employed, or of a customarily recognized department or subdivision thereof.
- b. Customarily and regularly directs the work of two or more other employees therein. This test would be met, for example, if an employee directs (a) one full-time and two part-time workers, one of whom works mornings and the other in the afternoons; or (b) four part-time workers, two of whom work mornings and the others in the afternoons.
- c. Has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring or firing and as

to the advancement and promotion or any other change of status of other employees will be given particular weight.

- d. Customarily and regularly exercises discretionary powers.
 - e. Does not devote more than 20 percent of his hours of work to activities other than those described above.
- (5) Any employee below the supervisory level obtaining signatures from thirty (30) County employees (either temporary or permanent) shall be eligible to offer for election as an employee representative. Personnel so motivated shall qualify with the Personnel Department.
- (6) Alternates, to fill temporary or permanent vacancies, shall be chosen in advance to insure compliance with the Commission appointees (Paragraph two (2) above). Once an alternate fills a permanent vacancy, a new alternate will be chosen in the following manner:
- a. One alternate will be chosen by the County Commission at the same time the two (2) permanent members are chosen. If the alternate fills a permanent vacancy, then a new alternate shall be chosen by the County Commission within 20 working days.
 - b. If a vacancy involves an elected member (employee County-wide election - temporary or permanent), the alternate will be the person with the next highest vote total.
 - c. The alternate for the fifth (5th) member will be chosen by the four (4) regular members (Commission appointed members and elected members).
- (7) All committee members shall be given an introduction to their roles and responsibilities, relevant County policy and procedures, personnel regulations and general meeting protocol by the Personnel Director and the Director of Contract Compliance and EEO.
- (8) In the event that two (2) or more members are elected or appointed from the same department, the County Commission shall appoint an equal number of alternate members in order to comply with the requirements set forth in Section F, paragraph (3), below.
- F. Authority and Functions: The Grievance Review Committee shall have the power to issue "Recommended Settlement Orders" to the County Manager. Action by the County Manager shall be final. The Grievance Review Committee has no statutory power unilaterally to implement Recommended Settlement Orders without the prior approval of the County Manager.
- (1) Upon formulation of the Grievance Review Committee, a chairperson and a vice-chairperson shall be elected and thereafter annually in January of each year a chairman and a vice-chairman will be elected for a one year term by the members of the Committee.
 - (2) Any three (3) or more of the five (5) members must be present for all meetings, which shall constitute a quorum for the conduct of business, provided, however, that any committee member who is employed by the grievant's department shall be excluded from the hearing.
 - (3) To assure that the Committee shall be impartial in its deliberations and that an objective decision is rendered, any committee member who is employed in the grievant's department will be excluded from the hearing. In the event that the elected chairperson is excluded, the vice-chairperson will conduct the hearing.
 - (4) All Committee meetings shall be conducted during normal working hours only, upon written notice from the Committee Chairperson. No

hearing shall progress beyond 4 p.m. on any hearing date. If more time is needed, a continuance shall be granted.

- (5) Required attendance at meetings of the Grievance Review Committee by any employee participant or witness shall be reported on a standard leave slip as "Official Leave" and shall not be charged to any other leave category. The Committee Chairperson shall be responsible for notifying all participants and for coordinating with supervisors for release time for the grievant(s), witnesses and others. Both the grievant and department management shall be responsible for notifying the Grievance Review Committee Chairperson in advance of meetings, of the names and location of any employee witnesses who will appear during a hearing. It is the responsibility of the requesting parties to arrange the presence of any witnesses who are not County employees. Supervisors and Department Heads are expected to assist the efforts of the Grievance Review Committee by arranging for employee release time as requested by the Committee Chairperson.
- (6) Record-keeping: All testimony during a Grievance Review Committee meeting shall be tape-recorded, but shall not be transcribed, except at the cost of the requesting party. The Personnel Director shall be responsible for the typing and distribution of all finally approved "Recommended Settlement Orders" and shall also be responsible for the storage and maintenance of appropriate grievance files and tapes. All such tape recordings shall be destroyed at the end of one (1) year from the date of the Recommended Settlement Order, unless otherwise requested by any party at interest. Such destruction shall be certified by the Personnel Director.
- (7) The Chairperson of the Grievance Review Committee shall be responsible for ruling on all procedural questions and for answering all inquiries concerning the status of grievances that are being processed by the Grievance Review Committee. The Chairperson shall also be responsible for ensuring a quorum consisting of a minimum of three members of the committee are in place for all hearings. As necessary the Chairperson shall request an election to fill a vacancy or vacancies for the employees representation and shall request appointments from the Commission to fill the management/supervisory representation.
- (8) Members of the Grievance Review Committee are not entitled to receive compensation for their services.
- (9) From time to time the Grievance Review Committee shall submit appropriate recommendations to the County Manager concerning this Policy and Procedure. Such report may include any items of significance as determined by the Committee.
- (10) By a majority vote, the County Commission may remove for cause any Grievance Committee member. Following such action, the County Manager shall immediately appoint a temporary replacement for the removed member within twenty-one (21) days. If the removed member had been originally elected, a special election shall be held within sixty (60) days to complete the unexpired term of the removed member and the temporary appointee shall be summarily relieved of his duties on the Committee. For those members that are appointed, the Board of Commissioners shall appoint a permanent replacement member within sixty (60) days.
- (11) The Board of Commissioners, by formal action, shall annually recognize the performance of the Grievance Review Committee.
- (12) Recommendations by the Grievance Review Committee shall be objective, reasonable and impartial and shall identify instances where personal, political or religious prejudice may appear to exist; determine if existing laws, regulations or procedures are

violated, and/or determine when undue hardship results from a grievance action.

- (13) Should this policy conflict with any provision of existing State or Federal law, then the State or Federal law provision shall govern.
- (14) In cases of conflict between a recommendation by the Grievance Review Committee and an existing County Regulation or departmental policy, such recommendation shall be treated as an "exception to policy" in the instant case only.
- (15) Grievances shall be heard in the order of priority as set, and established on a committee agenda to be prepared in advance of each meeting.
- (16) Recommendations by the Grievance Review Committee shall be non-precedential. However, all settlements made by the Grievance Review Committee may give due consideration to past practices and decisions concerning other grievances of a similar nature.
- (17) The Director of Contract Compliance shall have an observation role in all Grievance Review Committee Hearings. This observation role is as a non-voting member and is bound by the confidentiality of the proceedings. Upon conclusion of the hearing, the Director of Contract Compliance may submit an advisory opinion relevant to the hearing, to be considered by the Grievance Review Committee. The Grievance Review Committee should actively seek advice in all cases from the Director of Contract Compliance and from the Personnel Director before a final decision is made on any Recommended Settlement Orders.
- (18) All Recommended Settlement Orders shall become a matter of official record and copies thereof furnished to all parties at interest, and a copy placed in the grievant's official personnel file.
- (19) Requests for information by any party at interest shall be governed by the provisions of PR 1000-1 - Locus and Confidentiality.
- (20) Any scheduled meeting of the Grievance Review Committee may be cancelled with the mutual consent of concerned parties and the Chairperson of the Grievance Review Committee, or for good cause.
- (21) All witnesses during a Grievance Review Committee meeting shall be sworn by the Chairperson.
- (22) Channels of supervision between steps and levels as specified in this policy shall be strictly followed.
- (23) All time limits shall be strictly observed. Failure to do so shall require that the grievance be referred immediately to the next higher level.
- (24) While a grievance is in progress, the grievants are expected to continue to work in a normal manner, without interruption, in the performance of duties. No retaliation against an employee who has filed a grievance will be tolerated.
- (25) Evidence of retaliation is cause for the grievance to be appealed immediately to Step 4, or to the Grievance Review Committee, if the Department Head is a party thereto.
- (26) All approved settlements at any level are binding upon the parties. Evidence of default on a settlement is considered to be cause for immediate appeal to Step 4 or to the Grievance Review Committee, as applicable.
- (27) The terms of settlement reached at any negotiating stage below the Grievance Review Committee shall be in writing and signed by both

the supervisor concerned and the grievant. Evidence of default on a settlement is cause for immediate appeal to Step 4, if the settlement was reached below that level, or to the Grievance Review Committee, if the settlement was at Step 4.

- (28) The Grievance Review Committee reserves the right to hear the most urgent cases before less urgent cases. For example; a case involving a dismissal as compared with one regarding an employee disagreement with a departmental leave policy. In cases where these grievance procedures are not followed as prescribed, such as following channels of supervision, then grievants may forfeit their rights to a hearing. Upon receipt of a grievance form by the Committee and the grievant is subsequently contacted regarding his/her intention to pursue the grievance, then he/she has (5) workdays to decide whether or not they intend to continue the grievance process and to relay that information to the Committee. Failure to so notify the Committee will result in dismissal of the case.

The Grievance Review Committee further reserves the right to deny and reject any grievance which in the opinion of the Committee is "frivolous", defined as having little or no basic validity, weight, worth or importance; not worthy of serious consideration; characterized as being trifling or paltry in its purpose.

- (29) It is emphasized that grievance hearings are not legal proceedings and it is neither necessary or recommended that employees hire a lawyer to represent them during the hearings. If a grievant appears before the Grievance Review Committee accompanied by an attorney or Court Reporter, the proceeding shall be recessed until a Fulton County Attorney can be notified in order to make a determination as to whether the interest of the County should likewise be represented by legal counsel.

- (30) The Director of Public Buildings shall assign a permanent conference room for use of the Grievance Review Committee.

References:

- (1) Fulton County Civil Service Act of 1982 and Personnel Regulations 1982 (Reprinted 1986)
- (2) Minutes of the Board of Commissioners date June 4, 1980
- (3) Minutes of the Board of Commissioners date April 6, 1983
- (4) Minutes of the Board of Commissioners date April 16, 1986
- (5) Minutes of the Board of Commissioners date August 17, 1988
- (6) Minutes of the Board of Commissioners date June 7, 1989

Date of Approval: June 7, 1989

Agencies Affected: All Departments and Elected Officials

Chairman Lomax stated since there were no objections, change in Procedure 100-24 Employee Grievances would be approved.